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KIMBERLY LYNN BACA, an individual
doing business as FAIRWAY
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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION

TARA ANN BARTOLI, an individual;
BRETT THOMAS BARTOLI, an
individual, TARA ANN BARTOLI as
Guardian ad litem for M.B., and TARA
ANN BARTOLI as Guardian ad litem
for L.B.,

Plaintiffs,

vs.

RANCHO CALIFORNIA RV
RESORT OWNERS ASSOCIATION, a
California nonprofit mutual benefit
corporation; DESERT RESORT
MANAGEMENT, INC., a California
corporation; CARI BURLEIGH, an
individual; CANDICE ELAINE
WILLIAMS, an individual doing
business as FAIRWAY ASSOCIATES;
KIMBERLY LYNN BACA, an
individual doing business as
FAIRWAY ASSOCIATES; and DOES
1 through 10, inclusive,

Defendants.

CASE NO. 5:18-cv-02643-MWF-KK

**DECLARATION OF FREDA
TJOARMAN IN SUPPORT OF
DEFENDANTS' STATEMENT IN
THE JOINT STIPULATION AND
IN OPPOSITION TO PLAINTIFFS'
MOTION TO COMPEL FURTHER
RESPONSES AND PRODUCTION
OF DOCUMENTS TO
PLAINTIFFS' REQUEST FOR
PRODUCTION OF DOCUMENTS,
SET ONE**

Judge: Hon. Kenly Kiya Kato
Crtrm.: 3/4

Discovery Cutoff: May 1, 2020
Pretrial Conference: August 17, 2020
Trial Date: September 8, 2020

4816-8267-1534.1

DECLARATION OF FREDA TJOARMAN IN SUPPORT OF DEFENDANTS' STATEMENT IN THE JOINT
STIPULATION AND IN OPPOSITION TO PLAINTIFFS' MOTION TO COMPEL FURTHER RESPONSES AND
PRODUCTION OF DOCUMENTS TO PLAINTIFFS' REQUEST FOR PRODUCTION OF DOCUMENTS, SET ONE

1 I, Freda Tjoarman, declare as follows:

2 1. I am an attorney duly admitted to practice in all of the courts of the
3 State of California and in the Central District of California, and I am an associate
4 with Lewis Brisbois Bisgaard & Smith LLP, attorneys of record for Defendants
5 Candice Elaine Williams (“Williams”) and Kimberly Lynn Baca (“Baca”) dba
6 Fairway Associates (“Fairway”) herein (together, “Defendants”). The facts set forth
7 herein are of my own personal knowledge, and if sworn I could and would
8 competently testify thereto. I make this Declaration as part of the Joint Stipulation
9 regarding Plaintiffs’ Motion to Compel Further Responses and Production of
10 Documents to Plaintiffs’ Request for Production of Documents, Set One, and in
11 Opposition to Plaintiffs’ Motion.

12 2. Plaintiffs Tara Bartoli, Brett Bartoli, Tara Bartoli as guardian ad litem
13 for M.B., and Tara Bartoli as guardian ad litem for L.B. (“Plaintiffs”) filed this
14 instant action against co-Defendants Rancho California RV Resort Owners
15 Association (“HOA”), Desert Resort Management, Inc. (“DRM”), and DRM’s
16 General Manager Cari Burleigh (“Burleigh”) (together, “co-Defendants”) and
17 Defendants Williams and Baca for housing discrimination based on familial status
18 in violation of the Fair Housing Act (“FHA”) and the Fair Employment and Housing
19 Act (“FEHA”).

20 3. Plaintiffs allege the following causes of action : (1) Violation of the
21 FHA - Section 3604(a), (2) Violation of FHA - Section 3604(c), (3) Violation of
22 FHA – Section 3604(d), (4) Violation of FHA – Section 3617, (5) Violation of FHA
23 – Disparate Impact, (6) Violation of the FEHA - Cal. Gov. Code Section 12955(a),
24 (7) Violation of the FEHA - Cal. Gov. Code Section 12955(b), (8) Violation of the
25 FEHA - Cal. Gov. Code Section 12955(c), (9) Violation of the FEHA - Cal. Gov.
26 Code Section 12955(k), (10) Violation of the FEHA - Cal. Gov. Code Section
27 12955(l), (11) Violation of the FEHA – Disparate Impact, (12) violation of the FHA

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1 (42 U.S.C. § 3604(b)), and (13) violation of the FEHA (Cal. Gov. Code § 12955(i)).

2 4. Plaintiffs served their Initial Disclosures under Federal Rules of Civil
3 Procedure (“FRCP”) 26(a) on June 4, 2019. A true and correct copy of Plaintiffs’
4 Initial Disclosures under FRCP 26(a) is attached hereto as **Exhibit 4**. Plaintiffs
5 claim minimal economic damages in their initial disclosures. Plaintiffs claim the
6 following damages in their initial disclosures:

7 **Special Damages**

8 Lost Income: \$1,652.75 per month, beginning May 1, 2019

9 Moving Expenses: \$4,223.78

10 RV Storage: \$100.00 per month, beginning May 1, 2019

11 Difference in Rent: \$1,100 per month, beginning May 1, 2019

12 **General Damages**

13 Emotional Distress: Unknown at this time

14 Lost Housing Opportunity: Unknown at this time

15 Loss of Rights: Unknown at this time

16 Punitive Damages: Unknown at this time

17 These amounts total \$24,193.03 to date, not taking into account any mitigation.

18 5. Plaintiffs also claim emotional distress, lost housing opportunity, loss
19 of rights, and punitive damages of an unknown amount at this time, in their initial
20 disclosures, but have not produced any documents or information showing that they
21 are being treated for any emotional distress by a healthcare provider. They also
22 have not produced any evidence to warrant punitive damages.

23 6. In connection with opposing Plaintiff’s motion to compel and in
24 preparation of Defendants’ portion of the Joint Stipulation, I researched jury verdicts
25 and settlements in California housing discrimination cases based on familial status.
26 My search returned 11 settlements and one verdict. The average settlement for these
27 11 cases is below \$52,000, inclusive of attorneys’ fees and involving multiple

1 plaintiffs. The average individual recovery for each plaintiff in those cases is
 2 significantly below that amount. The one case where verdict was reached is a case
 3 in the Superior Court of California, County of San Francisco, involving three
 4 couples, with each plaintiff recovering approximately \$28,333.33 assuming the
 5 amount was split evenly among the plaintiffs and not taking into account any
 6 attorneys' fees that may have been split. I also conducted a search on Pacer for
 7 cases where Plaintiffs' counsel Eric Markus is counsel of record on the case. I
 8 found no record of Mr. Markus having obtained a verdict on behalf of a plaintiff in a
 9 housing discrimination case in a federal court in California. My search shows Mr.
 10 Markus being counsel of record on four cases in the Central District, with one
 11 Central District case transferred to the Northern District of California, and none of
 12 which involve housing discrimination, except for this instant action. Mr. Markus
 13 has no cases in the Southern or Eastern Districts of California.

14 7. Plaintiffs propounded a first set of document requests on Defendants
 15 Williams and Baca, comprising of 27 categories of documents each to Williams and
 16 Baca, and on co-Defendants HOA, DRM, and Burleigh on August 8, 2019.
 17 Williams and Baca timely served substantive responses to Plaintiffs' Request for
 18 Production of Documents, Set One, on September 26, 2019 and produced an
 19 additional 48 pages of documents on October 11, 2019.

20 8. Despite responding substantively to the vast majority of Plaintiffs'
 21 document requests and stating whether the documents would be produced, have
 22 already been produced, or do not exist (save a handful of Plaintiffs' requests seeking
 23 the entire file on all owners, occupants, renters, buyers, sellers, and applicants since
 24 2015 to present) and producing the requested records the Friday before, Plaintiffs'
 25 counsel Mr. Markus nevertheless took issue with Williams' and Baca's responses
 26 and served Defendants' counsel Melissa Daugherty, the senior partner on the case,
 27 with a 69-page meet and confer letter at 5:00 p.m. on Monday, October 14, 2019

1 noting the most tacky-tacky claimed deficiencies to each and every one of the 27
 2 responses that Defendants served and to each and every objection that Defendants
 3 asserted, which is highly unusual given the relatively low number of requests and
 4 Defendants' substantive responses to the vast majority of them. Ms. Daugherty
 5 forwarded Mr. Markus' email and 69-page meet and confer letter to me. A true and
 6 correct copy of this email and Mr. Markus' 69-page meet and confer letter is
 7 attached hereto as **Exhibit 5**. Mr. Markus demanded an in-person conference to
 8 discuss the issues pursuant to Rule 37 of the Federal Rules of Civil Procedure and
 9 Local Rule 37-1.

10 9. In an effort to reduce costs in this case, I sent several meet and confer
 11 emails to try to discern what the real issue was that Mr. Markus had with
 12 Defendants' discovery responses and to try to set up a telephonic Local Rule 37-1
 13 conference rather than have to drive to his office and meet in person. Mr. Markus
 14 falsely accused me and the other senior partners on the case at my firm of evading
 15 our obligations under Local Rule 37-1 to meet and confer in person. All I was
 16 simply trying to do was to streamline the process and efficiently meet and confer to
 17 resolve the entire set of discovery responses that Defendants served in response to
 18 Plaintiffs' 27 document requests, as Mr. Markus apparently took issue with the
 19 whole set. Mr. Markus apparently had issue with some of the wording of
 20 Defendants' responses, and I agreed to provide supplemental responses to the
 21 majority of the requests with the phrasing that he wanted. Despite Defendants
 22 promising so, Mr. Markus still insisted on meeting in person and called to discuss
 23 some of the responses on October 22, 2019. A true and correct copy of my meet
 24 and confer emails to Mr. Markus is attached hereto as **Exhibit 1**.

25 10. After a one and one-half hour phone call on October 22, 2019, Mr.
 26 Markus and I were able to narrow down the issues from 27 requests at issue to about
 27 a handful, and as I had promised, Defendants would provide supplemental responses

1 to the vast majority of Plaintiffs' requests using the phrasing that Mr. Markus
 2 wanted. As to the requests that the parties could not agree on, I told Mr. Markus
 3 that I would inquire again with the Defendants and circle back with him as to
 4 whether any such documents exist, whether the Defendants have any additional
 5 requested documents that have not previously been produced, and whether they
 6 would reconsider any of the requests to which they objected. During our one and
 7 one-half hour phone call, I offered but Mr. Markus refused to accept redacted
 8 versions of these documents redacting the names, telephone numbers, and addresses
 9 of these persons. He stated that he "absolutely" wanted the names, addresses, last
 10 known addresses, telephone numbers, and move-out information of these persons,
 11 and that this was "non-negotiable." I stated that I would think on it and discuss it
 12 with Ms. Daugherty. Despite my efforts to streamline the meet and confer process
 13 and efficiently address the issues, and despite spending one and one-half hours
 14 trying to narrow down the issues, Mr. Markus nevertheless still insisted on meeting
 15 in person with a further caveat that he reserved the right to revisit any of the
 16 previously discussed and resolved issues and categories.

17 11. As Local Rule 37-1 required the parties to meet in person and Mr.
 18 Markus would not agree otherwise, I traveled to Mr. Markus' office in West Los
 19 Angeles and met with him on October 24, 2019 to discuss the remaining issues. Mr.
 20 Markus' senior partner on the case William Litvak joined the conference without
 21 providing me with any prior notice. Mr. Litvak stated that he was just there to
 22 observe and be "a fly on the wall." Mr. Markus revisited some of the requests that
 23 had previously been addressed and resolved during our one and one-half hour phone
 24 call two days prior. During the meeting, Mr. Litvak offered to allow Defendants to
 25 produced redacted versions of the documents, redacting the names, social security
 26 numbers, and telephone numbers of the people on the documents. I replied that I
 27 had offered this during the one and one-half hour phone call two days prior between

1 me and Mr. Markus, but Mr. Markus seemed to refuse to budge on having the
 2 names, phone numbers, addresses, names of children, and ages of children redacted,
 3 stating that this was “non-negotiable.” I told Mr. Litvak that I would be willing to
 4 consider his proposal if he and Mr. Markus made a good-faith promise not to seek
 5 the Court to order the documents un-redacted unless it became apparent later during
 6 the litigation process or later on discovery that it was absolutely necessary to the
 7 case to un-redact the information. Mr. Markus was apparently not on the same page
 8 as Mr. Litvak and stated that it was “absolutely” necessary that Plaintiffs have the
 9 information that the parties were considering redacting. Mr. Litvak then stated that
 10 even if Plaintiffs did agree to redacted versions, they would nevertheless proceed to
 11 move the Court for an order to obtain un-redacted copies. In advocating on behalf
 12 of Defendants’ best interests and to shield them from any potential exposure to other
 13 liability, I believe that these records should not be produced without a Court order as
 14 Defendants may be exposed to further liability if they produce such personal,
 15 private, and confidential records without prior authorization, and especially since it
 16 became apparent during my in-person conference with Mr. Litvak and Mr. Markus
 17 that Plaintiffs’ offer to allow Defendants to produce redacted copies of the
 18 documents was not made in good faith. After meeting for about 1 hour and 30
 19 minutes, we were able to work out all of the rest of the issues save for the two
 20 categories of documents that are the subject of this Joint Stipulation. I spent over
 21 three hours in traffic traveling to and from Mr. Markus’ office in West Los Angeles
 22 from Downtown Los Angeles to attend the in-person Local Rule 37-1 conference of
 23 counsel.

24 12. The requests that we could not come to agreement on were RFP No. 6
 25 (a request for all documents related to the sale and/or lease of any site at the Resort
 26 to any families from January 1, 2015 to the present, including but not limited to any
 27 listing agreements, offers, counteroffers, purchase/lease agreements, applications to

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1 rent, written leases, correspondence, notes, memoranda, communications between
 2 Williams and Baca and any person about such purchaser and/or renter, etc.) and
 3 RFP No. 8 (a request for all resident files, including file jacket covers, maintained
 4 regarding each owner, tenant, and/or occupant with families who resided at the
 5 Resort at any time during the period from January 1, 2015 to the present, including
 6 but not limited to a copy of all leases, rental agreements, purchase/sale agreements,
 7 applications, notices, rent receipts, security deposit refunds, eviction documents,
 8 complaints, notes, and communications). Mr. Markus, at the conclusion of the
 9 conference and while I was leaving his office, hand served me with a second set of
 10 discovery requests, seeking 1) a complete copy of all resident files, including file
 11 jacket covers, maintained regarding each owner, tenant, and/or occupant of any site
 12 at the Resort who did not have families, including a copy of all leases, rental
 13 agreements, purchase/sale agreements, applications, notices, rent receipts, security
 14 deposit refunds, eviction documents, complaints, notes, and communications for the
 15 period from January 1, 2015 to the present, and 2) all documents that reflect the
 16 identity of all person who resided and/or occupied any site available for rent at the
 17 Resort as of October 8, 2018, including but not limited to documents that reflect the
 18 name, telephone number, and permanent residence address of the owner of the
 19 site(s), advertisements, listing agreements, and leases and/or rental agreements.
 20 Defendants served objections to these requests on November 25, 2019 pending the
 21 Court's ruling on this Joint Stipulation regarding Plaintiffs' motion to compel.

22 13. I asked and Mr. Markus agreed to provide Defendants with a one-
 23 week extension for serving any supplemental responses and documents and agreed
 24 to not file any motion to compel for at least 10 days after receiving Defendants'
 25 supplemental responses and production. Defendants served supplemental responses
 26 on Plaintiffs on October 31, 2019 and produced over 800 additional documents on
 27 the same day. A true and correct copy of the proof of service for these supplemental

1 responses and production is attached hereto as **Exhibit 6**.

2 14. In connection with opposing Plaintiff's motion to compel and in
3 preparation of Defendants' portion of the Joint Stipulation, I researched and found a
4 similar housing discrimination case based on the FHA and the FEHA in which the
5 plaintiff moved to compel production of documents nearly identical to those at issue
6 here—*Elloitt, et al. v. Versa CIC, L.P., et al.*, Case No. 3:16-cv-00288-BAS-AGS
7 (S.D. Cal. 2016)—a case in the Southern District of California before the Honorable
8 Andrew G. Schopler. My firm Lewis Brisbois Bisgaard & Smith LLP represented
9 the defendants in that case and successfully opposed the plaintiff's motion to compel
10 on categories of documents virtually identical to the ones here. The plaintiff in that
11 case sought a request (RFP No. 7) for the following:

12 A complete copy of all tenant files maintained regarding each tenant who
13 resided at the Subject Rental Premises at any time since January 1, 2015,
14 including a copy of all leases or rental agreements; applications; notices; rent
15 receipts; security deposit refunds; eviction documents, including Notices of
16 Violations, three-day, thirty-day, and sixty-day notices, complaints, and
judgments, served or obtained by defendant or its agents for the purpose of
terminating the tenancy of any resident of the Subject Rental Premises; notes,
and communications.

17 Judge Andrew Schopler in that case ruled:

18 Moving on to the request for production, RFP number 7 requests the entire
19 file on all tenants who resided at the property from January 1, 2015 to the
20 present. I would respectfully deny the request to compel that. It seems to
21 me that this request is overbroad and gets in to too much irrelevant
information and poses too much of a cost in privacy burden for the very low
amount of relevance that that information would have.

22 This order was entered on May 24, 2017.

23 15. A true and correct copy of an email Williams sent to Burleigh on
24 October 8, 2018, which was produced in discovery and bates-stamped FAIRWAY
25 000013, is attached hereto as **Exhibit 2**.

26 16. A true and correct copy of a blank "Exclusive Authorization to Rent
27 Unit" used by Fairway Associates, and which was produced in discovery and bates-

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1 stamped FAIRWAY 000055-000056, is attached hereto as **Exhibit 3**.

2 I declare under penalty of perjury under the laws of the United States of
3 America that the foregoing is true and correct and that this declaration was executed
4 on December 2, 2019, at Los Angeles, California.

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Freda Tjoarman
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PROOF OF SERVICE

1 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

2 I am employed in the County of Los Angeles, State of California. At the
3 time of service, I was over 18 years of age and not a party to this action. My
4 business address is 11500 West Olympic Boulevard, Suite 550, Los Angeles, CA
5 90064.

6 On December 18, 2019 I served true copies of the following, described as:
7 **DECLARATION OF FREDA TJOARMAN IN SUPPORT OF DEFENDANTS'**
8 **STATEMENT IN THE JOINT STIPULATION AND IN OPPOSITION TO**
9 **PLAINTIFFS' MOTION TO COMPEL FURTHER RESPONSES AND**
10 **PRODUCTION OF DOCUMENTS TO PLAINTIFFS' REQUEST FOR**
11 **PRODUCTION OF DOCUMENTS, SET ONE** on the interested parties in this
12 action, as follows:
13

14
15 SEE SERVICE LIST ATTACHED

16
17 **BY ELECTRONIC TRANSMISSION – COURT'S CM/ECF SYSTEM.**

18 I caused an electronic version of the documents to be submitted to the United
19 States District Court and thereafter caused an electronic version to be served to the
20 persons in the above service list via the litigation support service CM/ECF system.

21 I declare under penalty of perjury under the laws of the State of California
22 that the foregoing is true and correct. Executed this 18th day of December, 2019 at
23 Los Angeles, California.

24
25 

26 Miriam Gonzalez, Declarant
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SERVICE LIST

*Attorney for Defendants Rancho California
RV Resort Owners Assoc., Desert Resort
Management, Inc. & Cari Burleigh*

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